

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

UNITED STATES OF AMERICA,

PLAINTIFF,

v.

STATE OF GEORGIA,

DEFENDANT.

Civil Action No.

1:16-cv-03088-ELR

**UNITED STATES’ MOTION TO COMPEL COMPLIANCE WITH
RULE 45 SUBPOENAS FOR INSPECTION OF PREMISES AFFILIATED
WITH THE GEORGIA NETWORK FOR EDUCATIONAL AND
THERAPEUTIC SUPPORT AND PIONEER RESA, NORTHWEST RESA,
OCONEE RESA, METRO RESA, COBB COUNTY SCHOOL DISTRICT,
AND FULTON COUNTY SCHOOL DISTRICT**

Pursuant to Rule 45(d)(2)(B) of the Federal Rules of Civil Procedure, Plaintiff United States of America (“United States”) respectfully submits this Motion to Compel Compliance with Subpoenas for the Inspection of Premises Affiliated with the Georgia Network for Educational and Therapeutic Support (“GNETS”) Program and Pioneer RESA, Northwest RESA, Oconee RESA, Metro RESA, Cobb County School District, and Fulton County School District and states as follows:

1) The United States has served 3 Rule 45 inspection subpoenas on Cobb County School District (Doc. 142); 4 on Fulton County School District (Doc. 146); 7 on Pioneer RESA, the Habersham County School District, the Dawson County

School District, and the Forsyth County School District (collectively “Pioneer Respondents”) (Docs. 136, 139-141, 173); 7 on Oconee RESA and Putnam County School District (collectively “Oconee Respondents”) (Docs. 138, 170); 7 on Northwest Georgia RESA and Chattooga County School District (collectively “Northwest Respondents”) (Docs. 169, 171); and 7 on Metro RESA (“Metro Respondents”) (Doc. 172) (together, the “Objecting Parties”).

2) Each Rule 45 subpoena contains a near uniform inspection protocol as Attachment A.¹ That inspection protocol, attached hereto as Exhibit A, outlines the terms on which the United States proposes to conduct each inspection.

3) On December 28, 2021, Cobb County School District and Fulton County School District provided the United States written objections to the Rule 45 inspection subpoenas, attached hereto as Exhibits B (Cobb County School District) and C (Fulton County School District). The United States met and conferred with counsel for Cobb and Fulton County School Districts on three occasions between

¹ There are two versions of Attachment A. The first applies to facilities where the two inspection teams intend to conduct inspections at different times on the same date (“Version 1”), and the second applies to facilities where the two inspection teams intend to conduct inspections on different dates (“Version 2”). Scheduling inspections of numerous GNETS program locations across the State of Georgia is logistically complex. The United States has scheduled the inspections to maximize efficiency and minimize costs. This inspection schedule drives the version of Attachment A served on a given nonparty. Apart from language addressing the timing of inspections, the two versions are identical.

January 10 and January 21, 2022. During that time, the parties narrowed but did not fully resolve the issues in dispute.

4) On March 4, 2022, following a conference with this Court and in accordance with this Court's standing order for civil cases, the United States and Cobb and Fulton County School Districts filed a Consolidated/Joint Discovery Statement that addresses the issues that remain in dispute. (Doc. 160) That Consolidated/Joint Discovery Statement, which specifically identifies each objection, the grounds asserted for the objection, and the United States' response, is incorporated here by reference.

5) On January 3, 2022, the Pioneer and Oconee Respondents filed a formal objection to the Rule 45 inspection subpoenas attached hereto as Exhibit D. (Doc. 128) The United States conferred by telephone on January 6 and 20, 2022 with counsel regarding these objections. Although each of those telephonic conferences lasted over two hours, the parties were unable to resolve their disputes.

6) On February 21, 2022, the Metro and Northwest Respondents filed a formal objection to the Rule 45 inspection subpoenas. (Doc. 156) That objection, attached hereto as Exhibit E, largely tracks the objection filed by the Pioneer and Oconee Respondents. On February 24, 2022, the United States conferred with counsel for the Metro and Northwest Respondents regarding the objections, but the parties were unable to reach agreement on the disputed issues.

7) On March 4, 2022, following a conference with this Court and in accordance with this Court's standing order for civil cases, the United States and the Pioneer, Oconee, Northwest, and Metro Respondents filed a Consolidated/Joint Discovery Statement that addresses the existing disputes between the parties. (Doc. 161) That Consolidated/Joint Discovery Statement, which specifically identifies each objection, the grounds asserted for the objection, and the United States' response, is incorporated here by reference.

8) On March 22, 2022, this Court entered an Order directing the United States to file any motions to compel as to the Objecting Parties within seven days. (Doc. 168)

9) The grounds supporting this motion are set forth in the accompanying Memorandum in Support of the United States' Motion to Compel Compliance With Rule 45 Subpoenas for Inspection of Premises.

WHEREFORE, in light of the foregoing and the attached Memorandum of Law in Support, the United States respectfully requests that this Court grant its Motion to Compel and issue an order (a) deeming the terms of the site inspection protocol included as Attachment A to the United States' Rule 45 subpoenas valid and enforceable under applicable law, (b) compelling the Objecting Parties to comply with the terms of the Rule 45 inspection subpoenas served on them,

including the site inspection protocol contained in Attachment A, and (c) granting such other relief as this Court shall deem just and proper.

Respectfully submitted this 25th day of March, 2022.

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L.R. 7.1(D) CERTIFICATION

I certify that this statement has been prepared with one of the font and point selections approved by the Court in Local Rule 5.1(C). Specifically, this motion has been prepared using 14-pt Times New Roman font.

/s/ Aileen Bell Hughes

AILEEN BELL HUGHES

ASSISTANT U.S. ATTORNEY

CERTIFICATE OF SERVICE

I certify that, on this 25th day of March 2022, I electronically filed the foregoing Motion to Compel Compliance with Rule 45 Subpoenas for Inspection of Premises with the Clerk of Court using the CM/ECF system, in order to effect service upon all counsel of record.

/s/ Aileen Bell Hughes

AILEEN BELL HUGHES

ASSISTANT U.S. ATTORNEY